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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,320	08/28/2003	Thomas M. McCormick	CH2M.44	7807
25871	7590	07/08/2004	EXAMINER	
SWANSON & BRATSCUN L.L.C. 1745 SHEA CENTER DRIVE SUITE 330 HIGHLANDS RANCH, CO 80129			SINGH, SUNIL	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 07/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/651,320

Applicant(s)

MCCORMICK ET AL.

Examiner

Sunil Singh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 17-28 is/are rejected.
- 7) ☒ Claim(s) 15 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/10/03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,2, 9, 18-21, 25-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson et al. (US 5836716)

Johnson et al. discloses a bedding for a utility line (22) comprising a trench (16), filter fabric (18), first and second particulate material (20).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3, is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. in view of Lacey (US 4199272).

Johnson et al. discloses the invention substantially as claimed. However, Johnson et al. is silent about including a drainage well. Lacey teaches a drainage well (see Fig. 1). It would have been considered obvious to one of ordinary skill in the art to modify Johnson et al. to include a drainage well as taught by Lacey in order to transport the filtered storm water to the water table.

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5. Claims 4, 6-8, 11, 13 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. in view of Coffman (US 6277274).

Johnson et al. discloses the invention substantially as claimed. However, Johnson et al. is silent about including a source of water (bioretention, porous particulate, perforated pipe wrapped in fabric) and conduit communicating the water source with the bedding. Coffman discloses a source of water (bioretention, porous particulate, perforated pipe wrapped in fabric (see Figs. 1, 4, reference characters 9, 11, 21) and conduit (48) communicating the water source with a drainage means. It would have been considered obvious to one of ordinary skill in the art to modify Johnson et al. to include a source of water and conduit as taught by Coffman in order to further treat surface water run-off.

6. Claims 5, 22, 23, are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. in view of Gorton (US 5997735).

Johnson et al. discloses the invention substantially as claimed. However, Johnson et al. is silent about including a perforated pipe overlying a utility line. Gorton teaches a perforated pipe (36) overlying a utility line. It would have been considered obvious to one of ordinary skill in the art to modify Johnson et al. to include a overlying perforated pipe as taught by Gorton in order to further filter surface water run-off from it's water source outlet conduit.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. in view of Jowett (US 6270661).

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Johnson et al. discloses the invention substantially as claimed. However, Johnson et al. is silent about the particulate material overlying the utility line is zero. Jowett teaches particulate material overlying a utility line is zero (see Fig. 6). It would have been considered obvious to one of ordinary skill in the art to modify Johnson et al. to include zero particulate material overlying the utility line as taught by Jowett since this is a mere design choice.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. in view of Coffman as applied to claim 11 above, and further in view of Gorton (US 5997735).

Johnson et al. (once modified) discloses the invention substantially as claimed. However, the (once modified) Johnson et al. is silent about including a perforated pipe overlying a utility line. Gorton teaches a perforated pipe (36) overlying a utility line. It would have been considered obvious to one of ordinary skill in the art to further modify (the once modified) Johnson et al. to include a overlying perforated pipe as taught by Gorton in order to further filter surface water run-off from it's water source outlet conduit.

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. in view of Coffman as applied to claim 11 above, and further in view of Lacey (US 4199272).

Johnson et al. (once modified) discloses the invention substantially as claimed. However, the (once modified) Johnson et al. is silent about including a drainage well. Lacey teaches a drainage well (see Fig. 1). It would have been considered obvious to one of ordinary skill in the art to further modify the (once modified) Johnson et al. to

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include a drainage well as taught by Lacey in order to transport the filtered storm water to the water table.

10. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. in view of Coffman as applied to claim 11 above, and further in view of Jowett (US 6270661).

Johnson et al. (once modified) discloses the invention substantially as claimed.

However, the (once modified) Johnson et al. is silent about the particulate material overlying the utility line is zero. Jowett teaches particulate material overlying a utility line is zero (see Fig. 6). It would have been considered obvious to one of ordinary skill in the art to further modify the (once modified) Johnson et al. to include zero particulate material overlying the utility line as taught by Jowett since this is a mere design choice.

#### ***Allowable Subject Matter***

11. Claims 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (703) 308-4024. The examiner can normally be reached on Monday through Friday 8:30 AM-5:00 PM.

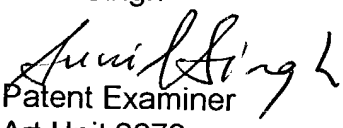
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703) 308-2978. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sunil Singh

  
Patent Examiner  
Art Unit 3673

SS

CS

6/25/2004